

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **CHAIRMAN DAVE LEWIS**, on April 10, 2003 at 3:40 P.M., in Room 102 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Dave Lewis, Chairman (R)  
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)  
Rep. Edith Clark, Vice Chairman (R)  
Rep. John Brueggeman (R)  
Rep. Tim Callahan (D)  
Rep. Stanley (Stan) Fisher (R)  
Rep. Eve Franklin (D)  
Rep. Dick Haines (R)  
Rep. Donald L. Hedges (R)  
Rep. Joey Jayne (D)  
Rep. Carol C. Juneau (D)  
Rep. Dave Kasten (R)  
Rep. Christine Kaufmann (D)  
Rep. Monica Lindeen (D)  
Rep. John Musgrove (D)  
Rep. Jeff Pattison (R)  
Rep. Rick Ripley (R)  
Rep. John Sinrud (R)  
Rep. John Witt (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jon Moe, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: None  
Executive Action: Reconsider SB 218

**EXECUTIVE ACTION ON SB 218**

**Motion/Vote:** REP. HEDGES moved TO RECONSIDER ACTION ON SB 218.  
**Motion carried 18-1 with REP. FISHER voting no on a voice vote.**

**Discussion:**

**CHAIRMAN LEWIS** said the major objection he had to the bill was the fiscal note which said it was going to cost \$3.1 million in this biennium. He said that amendments are being offered to take care of that problem.

**SENATOR JEFF MANGAN, SD 23, Great Falls,** said a subcommittee went back with the Department of Revenue to go through the 2001 reimbursement numbers and receipts from accounts. They divided them into three areas; public defender, or indigent defense; juvenile probation; and other court costs or regular district court functions. They were able to get them into those categories and into other sub-categories, with the exception of \$1.9 million. The budget office came up with the idea to make it a contingency fund. The \$1.9 million was already part of the Supreme Court's budget. The contingency language could have been put in either SB 490 or SB 218. SB 218 was where the language was put.

**CHAIRMAN LEWIS** said, "The way it is shown on the fiscal note is that it reduces the General Fund balance. His impression from the fiscal note is that, yes, you are taking it away from the Court and putting it into this contingency fund but it isn't like it's free money."

**Matt Bugni, Office of Budget and Program Planning,** said they did include it in FY 2004 as an additional \$1.9 million. In the last three months, when they looked at the county reports for FY 2001, projected those numbers into 2004 and 2005 since the branch had no base budget for District Court assumption. They used those 2001 figures from the counties to come up with what they would expect to see as a budget for FY 2004 and FY 2005. They looked at a break-out of certain costs that would be \$1.9 million and determined that the Judiciary did not have that \$1.9 million currently in their budget so it was an additional amount, negative impact to the General Fund.

**SENATOR DAN MCGEE, SD 11, Laurel,** said all SB 218 tries to do is set up a structure for moving indigent defense and appellate issues away from the Supreme Court, which is the proper thing to do. Even if the committee kills the bill, there will still be those expenses necessary to cover indigent defense and appellate

issues, whether or not the Court is in charge of it or the Department of Administration is in charge of it.

In response to a question from **REP. LINDEEN** concerning the above remarks, **SENATOR McGEE** said, "That is correct. The state has an obligation to provide a defense for indigent people and also for appeals from those same people. Currently, when the district court assumption comes over from the individual counties to the state, it falls under the auspices of the Supreme Court. The question is, is that the correct venue, should that be the correct overseeing for defense counsel? Should the Supreme Court, a court, be overseeing any counsel? Regardless of whether or not you create this into the Department of Administration, you still have the issue of having to fund defense counsel and so that is the money question. While all this is going on, in the background is an ACLU suit. The state and counties are being sued right now because there is not this uniformity of defense, the standards, etc."

**REPS. BUZZAS, RIPLEY, PATTISON**, to **SENATOR McGEE** and **SENATOR ESP** for further clarification.

**SENATOR McGEE** said, "The subcommittee has considered this for three months and it seems to them that this is the best course of action for the State of Montana at the present time for a variety of different reasons; the lawsuit, the counties not getting paid, the conflict of interest question and, it seems the best way to get it out away from the Supreme Court and into a department. The Department of Administration is the place to put it because this agency can run it more like a business, pay their bills on time, etc. Currently, it is not being done. In the end, it will be a better system."

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.5}*

**REPS. CALLAHAN, SINRUD**, and **FRANKLIN**, referred questions to **Gordon Morris, Director, MACo**; **SENATOR MIKE WHEAT**; **SENATOR MANGAN**; and **Linda Stoll, Missoula County**; for further clarification.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 27.1}*

**REPS. FISHER, HEDGES**, and **MUSGROVE** referred questions to **SENATOR ESP**; **Mr. Morris**; **Mr. Bugni**; **SENATOR MANGAN**, and **SENATOR McGEE** for further explanation and comments.

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 29.2}*

**CHAIRMAN LEWIS** said, "The committee is being asked to spend \$800,000 on the new staffing for the biennium for the Department of Administration. What is our return on that investment?"

**SENATOR MANGAN** said, "First of all, go into the lawsuit and get that out of the way. The lawsuit will be here whether the bill is passed or not. They think it will assist in mitigating the issues. One of the issues is money but the other issue is coordination. Is the public defender system a strong system? This will assist in centralizing the public defender and insuring that the same quality will be in all the counties. This will be a vehicle for accountability and cost containment that they can control through the budgeting process. The public defender system really doesn't belong in the Supreme Court."

**Motion:** REP. BRUEGGEMAN moved that SB 218 BE CONCURRED IN.

**Motion/Vote:** REP. BRUEGGEMAN moved that SB 218 BE AMENDED, SB021804.ajm, Exhibit 1. Motion carried 18-1 with REPS. FISHER voting no on a voice vote.

**EXHIBIT** (aph77a01) .

**Discussion:**

**CHAIRMAN LEWIS** said they need to know the dollar impact in this biennium and a good projection for the out bienniums of what additional costs might be incurred and what the impact of the Supreme Court would be if enacting this amended bill.

**REP. KASTEN** referred the committee to the top of Page 3 concerning FTEs.

**CHAIRMAN LEWIS** said the committee should study this bill further so they understand exactly what they are getting into in regard to the fiscal perspective so further action will be taken Monday.

**{Tape: 2; Side: B; Approx. Time Counter: 0 - 14.7}**

**ADJOURNMENT**

Adjournment: 5:30 P.M.

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REP. DAVE LEWIS, Chairman

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MARY LOU SCHMITZ, Secretary

DL/MS

**EXHIBIT (aph77aad)**